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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,621	02/09/2000	Randell L. Mills	8AC4-DIV1	4145
20736	7590	04/29/2005	EXAMINER	
MANELLI DENISON & SELTER 2000 M STREET NW SUITE 700 WASHINGTON, DC 20036-3307			KALAFUT, STEPHEN J	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/501,621	Applicant(s) MILLS, RANDELL L.	
	Examiner Stephen J. Kalafut	Art Unit 1745	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 05 April 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See body of action.
 12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) 5 April 2005
 13. ☐ Other: _____.

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Applicant has filed a Notice of Appeal on 5 April 2005. The Brief is due on 5 June 2005.

Applicant's IDS and the evidence submitted therewith has been considered, but is not persuasive. Specifically:

Attachments 86, 87, 91-100, 102, 103, 106 and 107 fall into category (1) as stated in the Final Rejection, paper no. 20040827. They have not been published or peer reviewed.

Attachments 7, 16, 42, 45-47, 49, 52, 54, 88, 91, 92, 95-97, 100, 103 and 105 fall into category (2) of the Final Rejection. They speculate hydrino formation as an explanation for data unrelated to and not necessarily caused by hydrinos.

Attachments 50, 86, 87, 89, 90, 92, 93, 98, 99, 100 and 104 fall into category (3), because they contain data not accounted for by applicant's theory.

Attachments 48, 94, 102, 106 and 107 fall into category (4) because they with phenomena other than the hydrino.

Attachments A, C, D, G, H, I, J, K, M, N, O, P, Q, R and S fall into category (5) because they are not related to the scientific merits of the present invention, dealing instead with news stories about the PTO and applicant's related inventions, and letters to and/or from various government officials.

Regarding attachment I, there is nothing seen in these transcripts of Internet discussions which would refute the implications of the cited section of the Zimmerman paper.

Regarding attachment S, authored by consultancy examiner Souw, there is nothing in this article, concerning telescope arrays, which indicates competition between the author and

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applicant. While the author's consulting company has dealt with microwave plasma devices, the use of these devices does not necessarily involve hydrogen atoms.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjk


STEPHEN KALAFUT
PRIMARY EXAMINER
GROUP 1700